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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,673	07/28/2003	Hajime Sasaki	HIRA.0118	4610
38327	7590	12/09/2008		
REED SMITH LLP 3110 FAIRVIEW PARK DRIVE, SUITE 1400 FALLS CHURCH, VA 22042				
EXAMINER				
QAYYUM, ZESHAN				
ART UNIT		PAPER NUMBER		
3685				
MAIL DATE		DELIVERY MODE		
12/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,673

Applicant(s)

SASAKI ET AL.

Examiner

ZESHAN QAYYUM

Art Unit

3685

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. Claims 1-4 have been examined.

Response to Arguments

2. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.
3. With respect to 35 U.S.C. 112 second paragraph rejections, Claims 1-3 are indefinite because, claims stated system and method steps. For example "receiving a request...", "transmit upload permission key...", "authenticate validity of ..." and "transmit to ...". Therefore the Examiner maintains 35 U.S.C. 112 second paragraph rejections to applicant claims.
4. With respect to claim 3 argument, the applicant does not argue predictability of the result. Applicant also does not argue that any apply art does not tech any limitation. Therefore combination in light of KSR is valid. In addition the combination of Ballantyne and Kitahara disclose the server (i.e. Master Library ML) is linked to other medical institutions terminal (i.e. hospital or clinics). The combination does not explicitly disclose upon receiving medical information reference request from first institution terminal (i.e. hospital or clinic) allow second institution terminal to access patient information. At the time the invention was made, it would have been obvious to yield predictable results that other hospital can access the patient information while they are connected to server.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. With respect to claims 1-3, the claims are directed to a system and method for using system. For example claims 1-3 recite both "a medical support system" and steps of medical information control device. (i.e. "receiving a request...", "transmit upload permission key...", "authenticate validity of ..." and "transmit to ...". Therefore it has been held that a claim that recites both an apparatus and a method for using said apparatus is indefinite under section 112, paragraph 2, as such claim does not sufficiently precise to provide competitor with an accurate determination of the 'metes and bounds' of protection involved (IPXL Holdings LLC v. Amazon.com Inc., 77 USPQ2d 1140 (CA FC 2005); *Exparte Lyell*, 17 USPQ2d 1548).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne (US 5867821) in view of Rozen (US 6073106).**
8. With respect to claims 1-4, Ballantyne discloses Patient terminal, medical institution terminal (i.e. clinics) (See column 6, lines 47-57 and Fig 1) management server (i.e. Master library) (See column 4, lines 1-3, column 6, lines 32-35 and Fig 1 and 2) medical information storage device (See column 4, lines 4-15 and column 6, lines 20-31) management information control device (See column 7, lines 16-22) Ballantyne does not explicitly disclose: wherein said medical information control device is configured to, upon receiving a request from a patient terminal of a first patient among the plurality of patients to upload/download in said management server medical information of said first patient managed by a medical institution among said plurality of medical institutions, transmit upload permission key data for uploading said medical information of said first patient in said management server and a content of said medical information of said first patient to be uploaded by the request to said medical institution terminal of said requested medical institution; upon receiving said upload permission key data transmitted from said medical institution terminal, authenticate validity of said upload permission key data, transmit to said medical institution terminal a permission response for transmitting said medical information of said first patient to said management server, and defer upload of said medical information of said first patient; and upon receiving said medical information of said first patient transmitted from said medical institution terminal,

store said medical information of said first patient in said medical information storage device.

Rozen discloses: wherein said medical information control device is configured to, upon receiving a request from a patient terminal of a first patient among the plurality of patients to upload in said management server medical information of said first patient managed by a medical institution among said plurality of medical institutions, transmit upload permission key data for uploading said medical information of said first patient in said management server and a content of said medical information of said first patient to be uploaded by the request to said medical institution terminal of said requested medical institution; upon receiving said upload permission key data transmitted from said medical institution terminal, authenticate validity of said upload permission key data, transmit to said medical institution terminal a permission response for transmitting said medical information of said first patient to said management server, and defer upload of said medical information of said first patient; and upon receiving said medical information of said first patient transmitted from said medical institution terminal, store said medical information of said first patient in said medical information storage device.(See column 5, lines 42-47, and column 7, lines 15-67).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of invention was made to modify Ballantyne reference with Rozen in order to provide data security.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZESHAN QAYYUM whose telephone number is (571)270-3323. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. Q./

Examiner, Art Unit 3685

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 3685